IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3396 of 2007()

CC.848/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

.....

PETITIONER: ACCUSED:

E.P. KUNHIMOIDU, S/O. CHEKKUTTY,
EDAKULATH PUTHEN PURACKAL HOUSE, THIRUNAVAYA.

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENTS: RESPONDENT:

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3396 OF 2007

Dated this the 12th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. He had entered appearance before the learned Magistrate and was enlarged on bail. But the petitioner could not appear before the learned Magistrate on 23/4/07 and 11/5/07. A warrant of arrest has been issued by the learned Magistrate against the petitioner. The petitioner finds such warrant of arrest chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He was seriously ill and that is why he could not appear before the learned Magistrate. He apprehends imminent arrest. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner

apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to

the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge